

NICHOLAS STROZZA, ASSISTANT U.S. TRUSTEE  
 State Bar # CA 117234  
 WILLIAM B. COSSITT, #3484  
 OFFICE OF THE UNITED STATES TRUSTEE  
 300 Booth Street, Room 3009  
 Reno NV 89509  
 Telephone: (775) 784-5335  
 Fax: (775) 784-5531

Attorneys for United States Trustee  
 August B. Landis

UNITED STATES BANKRUPTCY COURT  
 DISTRICT OF NEVADA

In re:	)	Case no: BK-N-09-53610-GWZ
	)	Chapter: 11
PACIFIC PAWNBROKERS, INC.,	)	
	)	<b>MOTION TO CONVERT</b>
	)	<b>OR DISMISS CASE</b>
	)	
Debtor.	)	Hearing Date: August 24, 2011
		Hearing Time: 2:00 p.m.

The Acting United States Trustee ("US Trustee"), hereby moves to convert this case to chapter 7 or dismiss this case based upon the Debtor's failure to comply with the requirements of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure ("FRBP"), and the United States Trustee Program Guidelines ("Guidelines").

This Motion is based upon the Debtor's continuing losses and inability to rehabilitate.

This Motion is based upon the following points and authorities, together with the entire record in this case, of which the US Trustee respectfully requests the Court take judicial notice, and such evidence as may be introduced at the hearing.

**POINTS AND AUTHORITIES**

Pursuant to 28 U.S.C. § 586(a)(3), the US Trustee is charged with the responsibility for supervising the administration of cases and trustees in cases under chapters 7, 11, 12 and 13 of Title 11. To enable the US Trustee to carry out that duty, Congress has granted the US Trustee standing to raise and to "appear and be heard on any issue in any case or proceeding" brought under the Bankruptcy Code. 11 U.S.C. § 307. "In any case in which the United States trustee finds material

1 grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly  
2 after making the finding to the court for relief.” 28 U.S. C. § 586(a)(8).

3 **A. Statement of Facts.**

4 1. The Debtor commenced this case by filing a voluntary petition under chapter 11 on  
5 October 14, 2009. Docket # 1.

6 2. The US Trustee appointed an unsecured creditors committee (“UCC”) on November 13,  
7 2009. Docket # 14.

8 3. January 12, 2011, the Court order the appointment of a chapter 11 trustee pursuant to the  
9 stipulation of the US Trustee, the Debtor and the UCC. Docket # 58.

10 4. The US Trustee appointed Marv Harris as Trustee on January 21, 2011. Docket # 61.

11 5. March 15, 2011, counsel for the Debtor was allowed to withdraw. Docket # 76.

12 6. April 11, 2011, by stipulation, the stay was terminated for the Debtor’s business location.  
13 The business at that location had stopped several months earlier. Docket # 88.

14 7. By e-mail on May 23, 2011, Marv Harris resigned as Trustee.

15 8. The UCC has advised the US Trustee that it prefers conversion of this case to chapter 7  
16 over dismissal because some post petition transfers of inventory should be investigated by the  
17 chapter 7 trustee.

18 9. The Debtor has failed to file any monthly operating reports since the August 2010 report  
19 was filed on September 27, 2010. Docket # 47. Reports for the months of September 2010 through  
20 June 2011 are now past due. Prior to the time of the hearing on this motion, the operating report for  
21 July 2011 will also have become due.

22 10. The Debtor is delinquent an estimated \$2,275.00 for the payment of chapter 11 quarterly  
23 fees.

24 **B. Discussion.**

25 **1. Debtor’s continuing losses and inability to rehabilitate.**

26 The Debtor had one retail location in operation when the petition was filed. Business at that  
27 location was terminated several months ago and the automatic stay was terminated by stipulation  
28 from the location. Docket #88. The Debtor’s counsel has been allowed to withdraw and the Chapter  
11 Trustee has resigned.

1 Therefore, this Debtor has no ability to rehabilitate and is suffering continuing losses in the  
2 form of the quarterly fees, if no other. Cause for conversion exists pursuant to 11 U.S.C. §  
3 1112(B)(4)(A).

4 **2. The Debtor's failure to file required Monthly Operating Reports.**

5 Pursuant to 11 U.S.C. § 704(a)(8), made applicable herein pursuant to 11 U.S.C. §§ 1107(a)  
6 and 1106(a)(1), and FRBP 2015, a debtor is required to file monthly operating reports with the  
7 Court. Pursuant to Section 4.5.1 of the Guidelines, "on or before the 20<sup>th</sup> day of the month  
8 immediately following the month described in the report," a debtor shall file with the Court a  
9 monthly operating report for every month or partial month the case is pending.

10 The monthly operating reports are intended to disclose pertinent financial information to not  
11 only the Court and the US Trustee, but to all parties in interest. This information is then intended  
12 to be used to monitor the case and to consider the proper administration and/or liquidation of assets.

13 The Debtor's failures to generate and file timely, reliable, and adequate monthly operating  
14 reports is sufficient "cause" to convert or dismiss this case. 11 U.S.C. § 1112(b)(4)(F).

15 **3. The Debtor's failure to timely pay quarterly Chapter 11 fees.**

16 The Debtor has failed to pay an estimated \$2,275.00 in chapter 11 fees for the fourth quarters  
17 of 2011. Due to the absence of monthly operating reports, the actual amount due cannot be  
18 determined, and this amount is subject to change if and when disbursement information is received  
19 from the Debtor.

20 Debtors in chapter 11 proceedings are obligated to pay a fee for each quarterly period,  
21 including any fraction thereof, from the date the petition is filed until the case is converted or  
22 dismissed, whichever occurs first. 28 U.S.C. § 1930(a)(6). "Failure to pay any fees or charges  
23 required" is defined by statute as sufficient "cause" to convert or dismiss a chapter 11 case. 11  
24 U.S.C. § 1112(b)(4)(K).

25 **CONCLUSION**

26 The Debtor's inability to reorganize, failures to perform basic required duties, file monthly  
27 operating reports and pay chapter 11 fees, are sufficient cause to dismiss or convert this case. 11  
28 U.S.C. § 1112(b).

1 Wherefore, the US Trustee requests that this Court enter an order converting this case to  
2 chapter 7 or dismissing this case, and grant such other relief as the Court may deem appropriate.

3 DATED this 29th day of July, 2011.

4 Respectfully submitted,

5 Nicholas Strozza  
6 State Bar # CA 117234  
7 William B. Cossitt  
8 State Bar #3484  
9 300 Booth Street, #3009  
10 Reno NV 89509  
11 (775) 784-5335

12 /s/ **WILLIAM B. COSSITT**

13 

---

Attorneys for Acting United States Trustee  
14 August B. Landis  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

1. On July 29, 2011 I served the foregoing MOTION TO CONVERT OR DISMISS CASE

2. I served the above-named document (by the following means to the persons as listed below:

☐ a. ECF System:

☒ b. U.S. Mail, postage fully prepaid (list persons and addresses):

**STEPHEN R HARRIS**  
BELDING, HARRIS & PETRONI, LTD  
417 W PLUMB LN  
RENO, NV 89509

**PACIFIC PAWNBROKERS, INC.**  
701 RYLAND AVE  
RENO, NV 89502

**I declare under penalty of perjury that the foregoing is true and correct.**

Signed: July 29, 2011

/s/ Kimberly Flores  
KIMBERLY FLORES